

### **REMARKS**

Claims 1-13 are pending.

Claims 1-13 stand rejected.

Claim 13 has been cancelled, without prejudice.

Claims 1-5 and 12 have been amended. Support for this amendment can be found throughout the specification, as originally filed.

This response is submitted in response to a final office action and is deemed to place the application in a condition for allowance, or alternatively, in better condition for appeal.

The Applicant wishes to express its appreciation to the Examiner for the courtesies extended to Applicant's attorney, Preston Smirman, during telephonic interviews held on November 15 and 16, 2010.

### **REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH**

Claims 1-13 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

The Applicant respectfully traverses the 35 U.S.C. § 112, first paragraph, rejection of claims of 1-13. It should be noted that claim 13 has been cancelled, without prejudice.

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has amended claim 1 to remove the subject matter that was allegedly not described in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, has possession of the claimed invention.

The Applicant submits that the 35 USC § 112, first paragraph, rejection of independent claim 1 has been overcome or rendered moot. Because claim 1 is allowable for at least the reasons stated above, claims 2-12, which depend from and further define claim 1, are likewise allowable.

#### **REJECTION UNDER 35 U.S.C. § 103(a)**

Claims 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tang et al. (Chinese Patent No. 1449997), in view of Kistler (U.S. Patent No. 2,249,767) and White et al. (U.S. Patent No. 2,807,588).

The Applicant respectfully traverses the 35 U.S.C. § 103(a) rejection of claim 13.

The standard for obviousness is that there must be some suggestion, either in the reference or in the relevant art, of how to modify what is disclosed to arrive at the claimed invention. In addition, "[s]omething in the prior art as a whole must suggest the desirability and, thus, the obviousness, of making" the modification to the art suggested by the Examiner. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 U.S.P.Q.2d (BNA) 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988). Although the Examiner may suggest the teachings of a primary reference could be modified to arrive at the claimed subject matter, the modification is not obvious unless the prior art also suggests the desirability of such modification. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d (BNA) 1397, 1398 (Fed. Cir. 1989). There must be a teaching in the prior art for the proposed combination or modification to be proper. *In re Newell*, 891 F.2d 899, 13 U.S.P.Q.2d (BNA) 1248 (Fed. Cir. 1989). If the prior art fails to provide this necessary teaching, suggestion, or incentive

supporting the Examiner's suggested modification, the rejection based upon this suggested modification is error and must be reversed. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d (BNA) 1566 (Fed. Cir. 1990).

In the interests of expediting prosecution of the instant application, and without admission that any amendment is required, the Applicant has cancelled claim 13, without prejudice.

The Applicant submits that the 35 USC § 103(a) rejection of claim 13 has been overcome or rendered moot.

### **CONCLUSION**

In view of the foregoing, the Applicants respectfully request reconsideration and reexamination of the Application. The Applicants respectfully submit that each item raised by Examiner in the Final Office Action mailed November 23, 2010 has been successfully traversed, overcome or rendered moot by this response. The Applicants respectfully submit that each of the claims in this Application is in condition for allowance and such allowance is earnestly solicited.

The Examiner is invited to telephone the Applicants' undersigned attorney at (248) 601-6666 if any unresolved matters remain.

**Respectfully submitted,**

**SMIRMAN IP LAW, PLLC**

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**Date**

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